

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL ELLIOT KWABENA OKYERE DARKO,	:	
	:	
Plaintiff,	:	
	:	23-CV-3232 (JMF)
-v-	:	
	:	<u>MEMORANDUM OPINION</u>
AUBREY DRAKE GRAHAM et al.,	:	<u>AND ORDER</u>
	:	
Defendants.	:	
-----X	:	

JESSE M. FURMAN, United States District Judge:

Plaintiff Michael Elliot Kwabena Okyere Darko moves for alternative service — namely, to serve Defendants Alexander Lustig, Christian Beau Anastasiou Astrop, and OVO Sound LLC by email. *See* ECF No. 58. With respect to Lustig and Astrop, Darko’s motion is inadequate. He fails to provide the email addresses through which he proposes to effectuate service on them. Nor does he provide any evidence to substantiate his belief that Lustig and Astrop regularly use the email addresses. Darko’s unsupported assertions that the web pages from which he obtained the email addresses “are actively and regularly used and updated with content,” ECF No. 60 (“Pl’s Mem.”), at 13, and that “[i]t is clear from their music business related web pages and social media profiles that they are regularly using and relying upon these email addresses for purposes of conducting their music business activities,” *id.*, are insufficient — without more — to demonstrate that Plaintiff’s proposed method of service is likely to apprise Lustig or Astrop of this action consistent with due process. Accordingly, Plaintiff’s motion is DENIED as to Lustig and Astrop, without prejudice to renewal if Plaintiff can demonstrate through exhibits or other evidence that email service is likely to provide adequate notice as to each individual Defendant. Any such renewed motion shall be filed no later than **November 17, 2023**.


Upon review of the motion papers (which includes, per the Court’s invitation, *see* ECF No. 66, a response from counsel for Defendant Aubrey Drake Graham and others, *see* ECF No. 68 (“Defs.’ Mem.”)), the Court denies Darko’s motion as to OVO Sound LLC with prejudice. It is far from clear that “OVO Sound LLC” is, in fact, a legitimate entity. In any case, the response to Darko’s motion makes plain that it is not an entity on whose behalf Graham’s counsel could properly accept service. Accordingly, Darko’s motion is DENIED with prejudice as to OVO Sound LLC. In light of that, Darko shall, no later than **November 17, 2023**, show cause why his claims against OVO Sound LLC should not be dismissed for failure to serve; if Darko does not show cause by that date, his claims against OVO Sound LLC will be dismissed without further notice to the parties. That said, the Court will not, as Graham suggests, bar Darko from “add[ing] any other ‘OVO’ entities.” Defs.’ Mem. 4. Graham does not cite, and the Court has not found, any authority that would support such relief on this record.

Accordingly, Plaintiff’s motion is DENIED without prejudice as to Lustig and Astrop, and DENIED with prejudice as to OVO Sound LLC.

The Clerk of Court is directed to terminate ECF No. 58.

SO ORDERED.

Dated: November 8, 2023
New York, New York



JESSE M. FURMAN
United States District Judge